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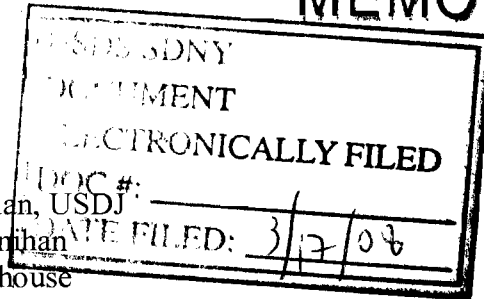
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MEMO ENDORSED

March 6, 2008

Hon. Lewis A. Kaplan, USDJ  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl St., Room 1310  
New York, NY 10007



**Re: Tanz v. Kasakove et al, CASE #: 1:08-cv-01462-LAK**

Dear Judge Kaplan:

I represent the Plaintiff in the above-referenced action. I am seeking relief from the Court's Order of Dismissal of March 5, 2008, ECF Docket Entry No. 3, pursuant to Section 11 of the S.D.N.Y. Procedures For Electronic Case Filing, due to untimely filing of the Amended Complaint due to technical error.

On February 20, 2008, the Court entered an Order stating:

Jurisdiction is invoked pursuant to 28 USC ss1332. The complaint or notice of removal, as applicable, fails adequately to allege the existence of subject matter jurisdiction because, perhaps among other things, it fails adequately to allege - the citizenship of one or more corporations. See 28 USC ss1332(c)(1). Absent the filing by 2/29/08, and amended complaint, or notice of removal, as the case may be, adequately to allege the existence of subject matter jurisdiction, the action will be dismissed or, if removed, remanded. (Amended Pleadings due by 2/29/2008.)

On the same day, February 20, 2008, I filed an Amended Complaint, which properly alleges the citizenship of the corporate defendant, thereby establishing the Court's subject matter jurisdiction *via* diversity.

The Amended Complaint was filed by emailing the PDF of the Document to the Clerk of the Court at: case\_openings@nysd.uscourts.gov. (A copy of my email and the Amended Complaint is annexed hereto.) I filed the Amended Complaint by email to the Clerk of the Court, rather than filing it on ECF because

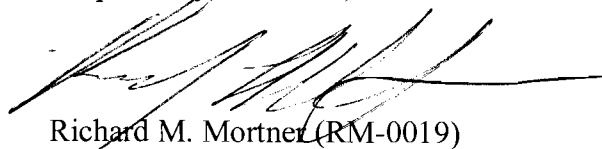
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- (i) Section (3) of the S.D.N.Y. 3rd Amended Instructions For Filing An Electronic Case or Appeal and Section 1(d) of the S.D.N.Y. Procedures For Electronic Case Filing requires case initiating documents be filed by email to this address of the Clerk; and
- (ii) The SDNY CM/ECF system does not offer an alternative to filers in the form of a Civil Event for filing an "Amended Complaint" on that system.

I cannot say why the Clerk of the Court failed to add the timely filed Amended Complaint to the Docket for this case.

Based on the foregoing, I respectfully request that the Court vacate the Order of Dismissal and except the Amended Complaint as having been filed on February 20, 2008.

Respectfully submitted,



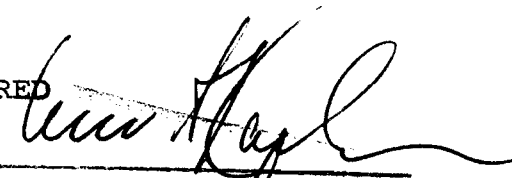
Richard M. Mortner (RM-0019)

Att.

MEMO ENDORSED

*As the amended complaint  
fail adequately to allege  
the citizenship of the corporate  
defendant, the application  
is denied.*

SO ORDERED



LEWIS A. KAPLAN, USDJ  
3/17/08